

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SPRINGFIELD SCHOOL COMMITTEE,)
Plaintiff,)
v.)) CIVIL ACTION NO. 08-30132-MAP
QUETZAL DOE, By and Though his Educational)
Surrogate Parent BRYAN CLAUSON, ESQ.,)
THE MASSACHUSETTS DEPARTMENT)
OF ELEMENTARY AND SECONDARY)
EDUCATION and THE BUREAU OF)
SPECIAL EDUCATION APPEALS,)
Defendants.)

**STATE DEFENDANTS' RESPONSE TO PLAINTIFF'S STATEMENT
OF MATERIAL FACTS AS TO WHICH
THERE IS NO GENUINE ISSUE TO BE TRIED**

Defendants the Massachusetts Department of Elementary and Secondary Education and the Bureau of Special Education Appeals (“BSEA”) (collectively, the “state defendants”) respond, pursuant to LR. 56.1, to the extent applicable, to plaintiff Springfield School Committee’s (“Springfield’s”) statement of material facts in support of its opposition to defendant Quetzal Doe’s (“Quetzal’s”) motion for summary judgment. Dkt. No. 22 at 1-3. It is not clear that the state defendants are required to respond to these statements, considering that Springfield has offered them in opposition to Quetzal’s motion rather than in support of

Springfield's cross-motion. In any event, the state defendants do not dispute the statements contained in those eight paragraphs.¹

Springfield has also included both (1) a statement of legal elements in support of its opposition to Quetzal's motion as well as (2) a statement of legal elements in support of its cross-motion. Dkt. No. 22 at 3-9. The state defendants will respond, to the extent necessary, in their memorandum to these statements. Neither the Federal Rules of Civil Procedure nor the

¹ To the extent that the Court's review is confined to the record of the administrative proceeding, 20 U.S.C. § 1415(i)(2)(B) – and no party has suggested that it should not be – the state defendants request that the Court waive the requirements of LR. 56.1, requiring the submission of a concise statement of material facts in support of a motion for summary judgment. “In a case like this, summary judgment is merely the device for deciding the issue, because ‘the procedure is in substance an appeal from an administrative determination, not a summary judgment.’” *North Reading School Committee v. BSEA*, 480 F. Supp. 479, 480, n. 1 (D. Mass. 2007) (citations omitted).

Local Rules of the United States District Court for the District of Massachusetts impose any requirement to include or respond to such a statement of legal elements.

Respectfully submitted,

THE MASSACHUSETTS DEPARTMENT
OF ELEMENTARY AND SECONDARY
EDUCATION and THE BUREAU OF
SPECIAL EDUCATION APPEALS

By their attorney,

MARTHA COAKLEY
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DATED: December 31, 2008.

CERTIFICATE OF SERVICE

I, James S. Whitcomb, Assistant Attorney General, hereby certify that this document, filed through the Electronic Case Files system, will be, on this 31st day of December, 2008, sent electronically to the registered participant(s) as identified on the Notice of Electronic Filing and mailed in paper copy form, by first class mail, postage prepaid, to those indicated non-registered participant(s).

/s/ James S. Whitcomb
James S. Whitcomb